



MAINE REVENUE SERVICES SALES, FUEL & SPECIAL TAX DIVISION INSTRUCTIONAL BULLETIN NO. 31

SALE OF MOBILE AND MODULAR HOMES

This bulletin is intended solely as advice to assist persons in determining, exercising or complying with their legal rights, duties or privileges. It contains general and specific information of interest as well as interpretations and determinations by Maine Revenue Services regarding issues commonly faced by your business. Portions of the Sales and Use Tax Law referred to in this bulletin can be found at the end of the bulletin in Attachment #1. Also attached are applicable Sales and Use Tax Rules.

When a new mobile or modular home is sold, the sales or use tax applies only to the portion of the sale price that represents the cost of materials. No sales or use tax applies to sales of manufactured housing that has been permanently incorporated into real property by the seller; however, the tax does apply to the purchase of the housing in the form of tangible personal property by the person who incorporates it into real property. Sales of used mobile and modular homes are exempt from Maine sales or use tax.

1. DEFINITION OF MOBILE AND MODULAR HOMES

"Mobile and modular homes" includes any unit that falls within the definition of "manufactured housing" as set forth in the Manufactured Housing Act (10 MRS [e9001 et seq.](#)). Units described in paragraph A or C of 10 MRS [e9002\(7\)](#) are considered mobile homes. Units described in paragraph B of 10 MRS [e9002\(7\)](#) are considered modular homes. The definition of "manufactured housing" from the Manufactured Housing Act is included in Attachment #1.

"Mobile and modular homes" does not include units that are designed and constructed primarily for temporary living quarters for recreation, camping or travel.

2. SALE OF NEW MOBILE AND MODULAR HOMES

A sale of a new mobile home will ordinarily be considered a sale of tangible personal property. The seller of the mobile home should purchase the home exempt from tax by furnishing the supplier with a resale certificate as provided in Rule 301, and should collect tax from the customer when the home is sold.

Sales of new modular homes are considered sales of real property if the seller, or an employee or agent of the seller, does any more than deliver the home to the location of the customer. In that situation, the seller must pay sales tax when purchasing the home if the supplier is registered to collect Maine sales tax. If the supplier does not collect the sales tax, the seller is re-

sponsible for payment of use tax directly to the State. The sales or use tax paid by the seller represents a cost which would be considered in determining the sale price of the home, but should not be billed to the customer as a separate amount.

When the customer takes delivery of a modular home at the location of the seller, or when the seller delivers the home to the location of the customer but does not install or erect it, the sale is one of tangible personal property. The seller should buy tax-free and collect tax from the customer in the same way as when selling a mobile home.

3. SALE PRICE OF NEW MOBILE AND MODULAR HOMES

a. New Mobile Homes. All costs included in the sale price of a new mobile home other than the cost of materials are exempt from sales tax. If the cost of materials cannot be determined by the retailer, or if the cost of materials is less than 50% of the sale price, the retailer may not exempt more than 50% of the retail price.

b. New Modular Homes Installed by the Manufacturer. A sale of new modular housing installed on a foundation by the manufacturer prior to passage of title to the customer will be considered a sale of real property. The manufacturer, as the last purchaser of tangible personal property used in the construction of the real property, is liable for use tax based on the purchase price of materials used in the construction of the modular home.

c. New Modular Homes Installed by the Seller. A sale of new modular housing installed on a foundation by a seller who is not the manufacturer, prior to passage of title to the customer, will be considered a sale of real property. The seller, as the last purchaser of the home in the form of tangible personal property, is liable for use tax based on the cost of materials included in the purchase price of the modular home. If the cost of materials cannot be determined by the seller, or if the cost of materials is less than 50% of the sale price, the seller is liable for sales or use tax based on 50% of the purchase price of the modular home. Purchase by the seller of other materials incorporated into real property such as foundation work, steps, septic systems and similar items are subject to sales or use tax based on 100% of the sale price.

d. New Modular Homes Installed by the Customer. A sale of new modular housing installed on a foundation by the customer will be considered a sale of tangible personal property. If the seller is registered to collect Maine sales tax, the seller must collect tax from the customer based on the cost of materials included in the sale price of the home. If the cost of materials cannot be determined by the retailer, or if the cost of materials is less than 50% of the sale price, the retailer may not exempt more than 50% of the retail price. The sale price of a mobile or modular home includes furniture and appliances installed by the manufacturer of the mobile or modular home and any services that are a part of the sale.

4. EXEMPT SALES

a. Sales to Government Agencies. Sales made directly to the federal government, the State of Maine and political subdivisions of the State of Maine are exempt from sales tax. When making sales to government agencies, no evidence of exemption is required other than the invoice of the seller indicating a sale to an exempt governmental entity. Sales to other states or foreign countries or their sub-divisions are not exempt from Maine sales tax.

b. Sales to Exempt Organizations. The Maine Sales and Use Tax Law provides exemptions for sales to various organizations such as hospitals, schools, regularly organized churches or houses of religious worship and a number of other types of organizations. Organizations that qualify for exemption must obtain exemption certificates from Maine Revenue Services in accordance with Rule 302, and sales should be made tax-free to these organizations only when the purchaser furnishes a copy of its exemption certificate to the seller. The exemption does not apply to the clergy, staff or employees of exempt organizations.

c. Refund of Purchase Price. The sales tax does not apply to an allowance made upon the return of merchandise pursuant to warranty, or to the price of property returned by customers when the full purchase price is refunded. If a defective mobile or modular home or defective part is returned or replaced pursuant to a written or unwritten warranty, the amount refunded or applied toward the price of the replacement is not subject to tax. If a mobile or modular home is returned to the seller for any reason and the customer receives a refund of the full purchase price, the customer is also entitled to a refund of the sales tax.

d. Sales Where Out-Of-State Delivery is Made by Dealer. When a mobile or modular home is sold in Maine but delivered by the seller to the customer at a point outside the State of Maine, the Maine sales tax does not apply. The dealer must complete the "Affidavit of Exemption (to support out-of-state delivery)" (form ST-MV-36 - copy attached) and file this affidavit with the Dealer's Supplemental Sales Report (form ST-MV-8) on which the sale is reported. This affidavit must be signed by the person making delivery, not by the customer. It must be completed at the time of delivery. If the home is subsequently returned to Maine within twelve months from the date of purchase, the purchaser will become liable for use tax based on the original purchase price.

There is no exemption in the Maine Sales and Use Tax Law for the sale of a mobile or modular home to a customer who intends to remove it from Maine for use outside the State.

e. Sales for Resale. A retailer who sells mobile homes, or who sells modular homes as tangible personal property, should furnish the supplier with a resale certificate as provided in Rule 301. The certificate will enable the retailer to purchase tangible personal property for resale without payment of sales tax. Only one certificate need be filed with each supplier to cover subsequent purchases. However, the retailer must state to the

supplier whether the purchase is for resale or not and will be held responsible for the tax on any item purchased for resale but subsequently used by the retailer.

Purchasers who avoid payment of tax through deliberate misuse of resale certificates will be subject to prosecution.

Sales of modular homes to the consumer are ordinarily in the form of real property. A retailer who purchases modular homes that will be resold as real property must pay sales tax to the supplier as indicated above.

5. REPAIRS TO MOBILE HOMES BEING HELD FOR RESALE

Parts used to recondition a used mobile home in order to restore it to a salable condition, where the sale of the used mobile home will be in the form of tangible personal property, are not taxable when purchased by the retailer since they are purchased for resale. The retailer should furnish the supplier with a resale certificate as provided in Rule 301.

6. REPORTING SALES OF MOBILE AND MODULAR HOMES

In addition to the Sales and Use Tax Return (form ST-7), manufactured housing dealers are required to report their sales of mobile and modular homes on a "Dealer's Supplemental Sales Report" (form ST-MV-8), copies of which can be obtained from the Sales and Use Tax Section. Both taxable and exempt sales of mobile and modular homes must be reported.

7. RENTALS OF MOBILE AND MODULAR HOMES

Rentals of mobile and modular homes for use at the location of the lessee will be considered rentals of tangible personal property. The lessor is subject to sales or use tax based on the cost of the unit unless the rental qualifies as an interim rental of tangible personal property being held for resale and the lessor has filed a "Certificate of Election to Pay Tax on Interim Rental Receipts" (form ST-R-42) as provided in Rule 316, or unless the lease is such as to be deemed in lieu of purchase. For additional information about rentals of tangible personal property, please refer to Rule 316.

Rentals of mobile or modular homes at a location provided by the lessor are considered rentals of living quarters. Application of the Maine Sales and Use Tax Law to rentals of living quarters is discussed in detail in Sales and Use Tax Instruction Bulletin No. 32.

When a dealer has elected to file an interim rental certificate for the rental of a new mobile or modular home, the subsequent sale of the mobile or modular home will be considered a sale of a new mobile or modular home, and will be subject to all sales tax provisions applicable to new mobile or modular homes.

8. GENERAL INFORMATION REGARDING MOBILE HOME REGISTRATION

Maine manufactured housing dealers must provide their customers with a "Dealer's Certificate" showing either that the sales tax due on the home to be registered has been collected by the dealer, or that the sale of the home is not subject to tax. A properly completed "Dealer's Certificate" must be submitted by the customer to the Secretary of State as a prerequisite to any original registration. The Certificate must be signed by the dealer or an authorized representative, and the dealer's Seller's Registration Number must be indicated.

It is the responsibility of Maine manufactured housing dealers to collect and report the applicable sales tax on all retail sales made in this State, unless the purchaser qualifies for one of the tax exemptions discussed in Section 3 of this Bulletin. A Maine dealer does not have the option of allowing customers to pay the use tax directly to the Secretary of State at the time of registration, and the dealer will be held accountable for the tax on all taxable retail sales.

Application for registration of a mobile home purchased outside this State will be considered evidence of intent to use the mobile home in this State. The purchaser is required to pay the applicable tax to the Secretary of State or establish that no tax is due as a prerequisite to registration.

9. BUILDING PERMITS FOR MOBILE AND MODULAR HOMES

Any person applying for a permit to locate any form of new manufactured housing in Maine is required to show proof either that the home was purchased from a dealer registered to collect the Maine sales tax, or that Maine use tax has been paid directly to Maine Revenue Services. The city, town or plantation in which the home will be located may not allow the construction or location of new manufactured housing by anyone other than a dealer registered as a seller under the Maine Sales and Use Tax Law without either a bill of sale from a registered dealer or certification that the tax was paid to Maine Revenue Services. The permit is deemed to be not approved or valid until payment of the sales or use tax has been certified.

If the person siting the manufactured housing in the municipality needs to obtain a building permit in order to prepare the site for reception of the home before the home has actually been purchased, and consequently is unable to provide a bill of sale when applying for the building permit, a contract for a future sale of manufactured housing by a person registered to report Maine sales or use tax which otherwise meets the above requirements is sufficient evidence to allow issuance of a building permit by the municipality.

10. ADDITIONAL INFORMATION.

The information in this bulletin addresses some of the more common questions regarding the Sales and Use Tax Law faced by your business. It is not intended to be all inclusive. Requests for information on specific situations should be in writing, should contain full information as to the transaction in question and should be directed to the:

**MAINE REVENUE SERVICES
SALES, FUEL & SPECIAL TAX DIVISION**

**P.O. BOX 1065
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ATTACHMENT #1
Excerpts taken from 36 M.R.S.A.

36 §1752. Definitions

The following words, terms and phrases when used in chapters 211 to 225 have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

10. Retailer. "Retailer" means any person who makes retail sales or who is required to register by section 1754-A or 1754-B or who is registered under section 1756.

11. Retail sale. "Retail sale" means any sale of tangible personal property in the ordinary course of business for any purpose other than for resale, except resale as a casual sale, in the form of tangible personal property. "Retail sale" also means any sale of a taxable service in the ordinary course of business for any purpose other than for resale, except resale as a casual sale.

13. Sale. "Sale" means any transfer, exchange or barter, in any manner or by any means whatsoever, for a consideration and includes leases and contracts payable by rental or license fees for the right of possession and use, but only when such leases and contracts are deemed by the State Tax Assessor to be in lieu of purchase.

14. Sale price. "Sale price" means the total amount of a retail sale valued in money, whether received in money or otherwise.

A. "Sale price" includes:

- (1) Services which are a part of a retail sale; and
- (2) All receipts, cash, credits and property of any kind or nature and any amount for which credit is allowed by the seller to the purchaser, without any deduction on account of the cost of the property sold, the cost of the materials used, labor or service cost, interest paid, losses or any other expenses.

B. "Sale price" does not include:

- (1) Discounts allowed and taken on sales;
- (2) Allowances in cash or by credit made upon the return of merchandise or with respect to fabrication services pursuant to warranty;
- (3) The price of property returned or fabrication services rejected by customers, when the full price is refunded either in cash or by credit;
- (4) The price received for labor or services used in installing or applying or repairing the property sold or fabricated, if separately charged or stated;

17. Tangible personal property. "Tangible personal property" means personal property which may be seen, weighed, measured, felt, touched or in any other manner perceived by the senses, but does not include rights and credits, insurance policies, bills of exchange, stocks and bonds and similar evidences of indebtedness or ownership. "Tangible personal property" includes electricity.

36 §1758. Tax on interim rental of property purchased for resale

Every person making a purchase for resale or use in this State and other than at casual sale of any article of tangible personal property as to which no sales tax has been paid pursuant to chapters 211 to 225 and renting it to another in this State shall be liable for a use tax thereon as provided in 1861 based on the purchase price thereof, unless such renting is while holding it for resale and unless within 30 days after first so renting it he certifies in writing to the Tax Assessor on a form prescribed and furnished by the Tax Assessor that such article was purchased by him for resale. A tax is imposed at the same rate as that provided in the case of sales taxes by 1811 upon all rentals received by such person for use of the article covered by such certification; and if such person thereafter makes any use of, or disposes of, such article other than by renting it to others or by making a sale thereof which is subject to a sales tax or by holding it for such sale, he shall be liable for a use tax thereon as provided in section 1861 based on the purchase price paid therefor by him less the aggregate amount of tax paid pursuant to this section on the rentals thereof. The tax on rentals imposed by this section shall be subject to 1812 and all other pertinent provisions of chapters 211 to 225 and for the purposes thereof shall be treated the same as the sales tax imposed by 1811 with the rentor deemed to be the retailer, the rentals deemed to be the sale price, and the rentee deemed to be the purchaser and consumer. Any certification under this section shall cover one article only with its attachments and accompanying accessories, if any. The term "renting" as used in this section shall include renting, letting, leasing and chartering and the term "rentals" as used in this section shall include any receipts derived from the use of any such article covered by any such certification.

36 §1760. Exemptions

No tax on sales, storage or use shall be collected upon or in connection with:

40. Mobile and modular homes. Sales of mobile or modular homes includes:

A. Used mobile and modular homes; and

B. New mobile and modular homes. Exemption is limited to all costs, other than materials, included in the sale price, but not to exceed 50% of the sale price.

36 §1952-B. Manufactured housing

The tax imposed by chapters 211 to 225 on the sale or use of any type of manufactured housing, as defined in Title 30-A, section 4358, subsection 1, paragraph A, except when the dealer has collected the tax in full, must be paid by the purchaser to the State Tax Assessor. The State Tax Assessor shall provide a tax receipt to the purchaser, which, upon request by the municipal officials, assessors of a plantation or the Maine Land Use Regulation Commission, must be made available by the purchaser to certify that the tax imposed by chapters 211 to 225 has been paid, pursuant to Title 30-A, section 4358, subsection 4 or Title 30-A, section 7060, subsection 1, paragraph C.

A valid bill of sale from a dealer showing that the tax has been collected in full serves to certify that the tax imposed by chapters 211 to 225 has been paid, pursuant to Title 30-A, section 4358, subsection 4, or Title 30-A, section 7060, subsection 1, paragraph C, in lieu of a tax receipt provided by the State Tax Assessor.

Relevant Rules:

#301 - Sales for Resale and Sales of Packaging Materials

#302 - Government Agencies, Exempt Organizations and Sales Thereto

#304 - Reports and Payment

#305 - Retailers' Records

#316 - Rental of Tangible Personal Property